

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit: 1652
	)	
KONGERSLEV, et al.	)	Examiner: MONDESI, R.
	)	
Serial No.: 10/527,191	)	Washington, D.C.
	)	
Filed: March 10, 2005	)	February 13, 2008
	)	
For: COLLECTIN-COMPLEMENT	)	Docket No.: KONGERSLEV=2
ACTIVATING PROTEIN	)	
CHIMERAS	)	Confirmation No.: 1109

INTERVIEW SUMMARY RECORD

U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

S i r :

Counsel thanks Examiner Mondesi for granting a telephonic interview on February 12, 2007. Several issues were discussed.

Procedure

The Examiner recommended that applicants file an RCE, preferably with an amendment narrowing claim 1, and then request an interview, as the PTO would have more flexibility in that situation.

Restriction

1. Counsel pointed out that several claims, presently withdrawn from consideration, should have been considered because they read on the elected species (Fig. 3, SEQ ID NO:127, fusion of amino acids 1-77 of human L-ficolin, SEQ ID NO:125 to amino acids 80-228 of human MBL, SEQ ID NO:126).

In particular, the following claims were discussed.

68: "at least amino acids 1-54" of L-ficolin reads on 1-77 of the elected species, "at least amino acids 100-200" of human MBL reads on 80-228 of the elected species.

67: broader than 68 by virtue of 95% identity language.

5: The "complement activating protein" (clearly a reference

to the "lectin-complement pathway activating protein" (LCPAP) of claim 1, para. (i)) must be "ficolin"; the claim still permits the first sequence to be a fragment of the LCPAP as in the elected species.

6: The ficolin is chosen from markush group including L-ficolin.

7: The ficolin is L-ficolin.

18: The collectin is MBL.

29: at least 70% identical to Fig. 3.

57: like 1 except fragments must be at least 50 a.a.; 1-77 is 77 a.a. and 88-228 is 141 a.a. (Note: 58, although dependent on 57, was examined.)

59: like 57 but requires at least 95% rather than merely at least 70% identity.

60: LCPAP is human L-ficolin (SID 125) and collectin is human MBL (SID 126); this claim still reads on fusion of fragments of same.

61: limits 57 with conservative substitution language.

63: limits 59 similarly. (Claim 64, dependent on 63, was examined.)

The Examiner agreed to rejoin these claims (68, 69, 5, 6, 7, 18, 29, 57, 59, 60, 61 and 63) but urged that applicants file an RCE.

The Examiner agreed that if an RCE was filed, the amendment accompanying the RCE need not identify those claims as being withdrawn.

Counsel also briefly noted that claims 9, 11, 13, 20, 21, 22, 24, 27, and 65 contain domain language which, applicants believe read on the elected species and hence should be rejoined.

#### Prior Art

1. The Examiner was advised that the present office action is confusing in that page 9 still applies Thiel WO 00/06460 even though the Examiner's sequence search was based on Thiel WO

00/70043 and office action page 10 says citation of WO 00/06460 was a "clerical error".

2. The Examiner was advised that the present and prior office action are confusing in that they refer to "Matsushita et al. 2002" even though there are two such references of record (IDS Refs. AI and AM), and that the confusion is compounded in that the prior action page 18 last line cites page 2281 of Matsushita which could only refer to Matsushita et al. 2000 (IDS Ref. AK). Clarification in the next action was requested.

3. Counsel pointed out that none of the art taught fusion proteins including ficolin or MBL as components, and the Examiner suggested that in view of the breadth of claim 1 (not limited to ficolin or MBL) that construction of claimed fusions might still be obvious under one of the KSR rationales. Counsel asked whether claim 60, or other ficolin/MBL specific claims, would overcome the prior art rejection and was advised that while the Examiner could not guarantee this, that he thought it very likely that it would do so.

#### Enablement

Enablement was not discussed in detail. The Examiner indicated that claim 1 was overbroad and advised that art unit policy disfavored allowance of claims to short (e.g, thirty amino acid) fragments of large proteins.

While it was not specifically discussed in the interview, counsel takes this opportunity to point out that the ficolin fragment in the tested fusion FCN2MBLr5 was 69 amino acids, which is not much longer than the fifty amino acid fragment length required by, e.g., claim 59.

#### Additional Note

While not discussed at the interview, Counsel wishes to note that while claim 66 is rejected on page 3 of the office action, it is not listed as rejected in the office action summary.

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Conclusion

The Examiner is asked to confirm the correctness of this interview summary record.

Respectfully submitted,

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